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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: JUUL LABS, INC. ANTITRUST
LITIGATION

Master File No.
3:20-cv-02345-WHO

STATUS REPORT

This Document Relates To:

JUDGE: William H. Orrick
CTRM: 2, 17th Floor

All Actions

Pursuant to the Stipulation and Order dated August 18, 2022 (ECF No. 330), the undersigned parties hereby submit their status report concerning developments in the action before the Federal Trade Commission titled *In re Altria Group, Inc. and JUUL Labs, Inc.*, Docket No. 9393 (the “FTC Action”):

On April 5, 2022, FTC Complaint Counsel filed its opening appeal brief.¹ On May 18, 2022, Respondents JUUL Labs, Inc. and Altria Group, Inc. filed their answering brief. On June 2, 2022, Complaint Counsel filed its reply.

¹ Copies of all referenced materials can be found at <https://www.ftc.gov/legal-library/browse/cases-proceedings/191-0075-altria-groupjuul-labs-matter> (visited July 27, 2023).

1 On September 6, 2022, Complaint Counsel and Respondents, respectively, submitted
2 compilations of materials for use at oral argument. On September 12, 2022 (after the grant of an
3 extension requested by Respondents' counsel), oral argument was held.

4 On November 3, 2022, the Commission entered an order requesting further briefing from
5 the parties on "the potential applicability of the *per se* rule and the inherently suspect standard to
6 an alleged unlawful agreement between Respondents Altria Group, Inc. ('Altria') and JUUL Labs,
7 Inc. ('JLI') for Altria to withdraw its e-cigarette products from the market," noting that "in the
8 course of the briefing," Complaint Counsel had asserted that "Respondents' conduct not only
9 violated the rule of reason, but 'may well amount to a *per se* violation [of Sherman Act Section 1]
10 or be unlawful under the "inherently suspect" standard.'" *Id.* at 2.

11 The November 3, 2022 order required that each side file briefs addressing those issues on
12 or before December 5, 2022 and reply briefs on or before December 20, 2022.

13 The parties filed their briefs on the dates ordered.

14 Per the Commission's November 3, 2022 Order, the Commission's deadline for issuing a
15 decision in the proceeding was March 30, 2023, 100 days after the reply briefs were due.

16 On March 6, 2023, Respondents filed a Motion to Take Official Notice and to Dismiss
17 the Litigation as Moot, or in the Alternative, to Stay the Litigation. On March 21, 2023,
18 Respondents filed a Motion to Withdraw Matter from Adjudication to Discuss Settlement.
19 Complaint Counsel opposed these motions.

20 On March 30, 2023, the Commission extended its deadline to issue a final decision in
21 the matter to May 5, 2023, in order to consider the matters raised by Respondents' motions,
22 and at the same time denied Respondents' alternative request for a stay.

23 On May 4, 2023, the Commission ordered that the matter be withdrawn from
24 adjudication until June 19, 2023.

25 On June 20, 2023, the Commission extended its withdrawal of the matter from
26 adjudication through June 30, 2023.

1 On June 30, 2023, the Commission entered an Order to Return Case to Adjudication,
2 Vacate Initial Decision, and Dismiss Complaint.²

3 On August 18, 2022, this Court had ordered that this action be stayed until the
4 expiration of the time to file an appeal to a Court of Appeals or until a decision in or dismissal
5 of an appeal to a Court of Appeals.

6 In view of the dismissal of the FTC action in its entirety, the stay entered herein in the
7 August 18, 2022 Order should be lifted and a scheduling order be negotiated among the
8 parties, including a revised deadline to respond to the Direct Purchaser Plaintiffs' Second
9 Amended Consolidated Complaint.

10
11
12 Dated: July 29, 2023

Respectfully submitted,

13
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27 ² Available at

28 https://www.ftc.gov/system/files/ftc_gov/pdf/d09393commissionorderdismissingcomplaint.pdf (visited July 28, 2023).

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L.R. 5-1 SIGNATURE ATTESTATION

As the ECF user whose user ID and password are utilized in the filing of this document, I attest under penalty of perjury that concurrence in the filing of the document has been obtained from each of the other signatories.

Dated: July 29, 2023

/s/ Joseph R. Saveri

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